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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,118	08/30/2001	Richard Cudd	9265.00	9806

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EXAMINER

HERNANDEZ, OLGA

ART UNIT PAPER NUMBER

2144

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,118

Applicant(s)

CUDD ET AL.

Examiner

Olga Hernandez

Art Unit

2144

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-97 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/30/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

RD

DETAILED ACTION

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 70-97, are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle (5,864,854) in view of Brustoloni (2002/0046348).

As per claims 70, 80 and 89, Boyle teaches requesting client broadcasting a data request over the network to the server and/or one or more other clients or connecting to at least one client over whose address is on a proxy list held by the requesting client; and the requesting client then downloading the requested data across the network from the cache of a proxy server client that is caching the requested data (column 3, lines 23-42, 60-66, column 4, lines 7-19, figures 1, 4 and 5). Boyle does not teach distributing the data around the devices within a predetermined target period. However, Brustoloni teaches it in paragraph [0059]. Thus, it would have been obvious to one skilled in the art to combine the aforementioned inventions in order to eliminate or provide automatic recovery from race conditions and collisions in a heuristic methodology for routing

incoming packets from a common server to a plurality of clients that are communicating with the server and sharing a common access link.

As per claims 71, 81 and 90, Boyle does not teach the period being variable. However, Brustoloni teaches it in paragraph [0049]. Therefore, it would have been obvious to one skill in the art to combine the aforementioned inventions in order to eliminate or provide automatic recovery from race conditions and collisions in a heuristic methodology for routing incoming packets from a common server to a plurality of clients that are communicating with the server and sharing a common access link.

As per claims 72, 82 and 91, speed is 1. *Physics*. The rate or a measure of the rate of motion, especially: **a.** Distance traveled divided by the time of travel. **b.** The limit of this quotient as the time of travel becomes vanishingly small; the first derivative of distance with respect to time.¹

As per claim 73, it is inherent the relationship between time and speed.

As per claims 74, 83 and 92, Boyle teaches maintaining a look-up table correlating items of data with addresses of proxy server clients that are caching that data (column 6, lines 9-16).

As per claims 75, 84 and 93, Boyle teaches reporting changes in the cache status to the requesting client (column 6, lines 52-58) and updating the table by assessing connection speed and deciding (column 6, lines 40-58, column 4, lines 35-50).

¹ *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction

As per claims 76, 85 and 94, Boyle teaches updating the table by assessing connection speed and deciding if the information should be discarded (column 6, lines 40-58, column 4, lines 35-50).

As per claims 77, 86 and 95, Boyle discloses sending the requested data containing respective address of the plurality of devices (column 4, lines 15-19) and requesting client assesses the speeds of connections to more than one address in the proxy list, records and compares the measured speeds (column 4, lines 33-50).

As per claims 78, 87 and 96, Boyle teaches monitoring the workload so the workload will be efficiently distributed through the available systems (column 4, lines 33-50).

As per claims 79 and 88, Boyle discloses the user terminals running web browsers, and the respective local caches are associated with the browsers on the user terminals (column 3, lines 60-66).

As per claim 97, Boyle teaches the use of the Internet (column 3, lines 60-66).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olga Hernandez whose telephone number is 571-272-7144. The examiner can normally be reached on Mon-Thu 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to be 'OH' with a long vertical line extending downwards.

Olga Hernandez
Examiner
Art Unit 2144

A handwritten signature in black ink, appearing to be 'DW' with a long diagonal line extending upwards and to the right.

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100